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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,955	12/01/2003	Renjith Ramachandran	1160215.0511786	3592

7590 07/21/2008
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EXAMINER

PRESTON, JOHN O

ART UNIT	PAPER NUMBER
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3691

MAIL DATE	DELIVERY MODE
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07/21/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/724,955	Applicant(s) RAMACHANDRAN ET AL.	
	Examiner JOHN O. PRESTON	Art Unit 3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-10 are presented for examination. Applicant filed an amendment on May 10, 2008. Claims 1, 3-5, and 8-10 are amended. Since the new grounds of rejection were necessitated by applicant's amendment of the claim(s), the rejection of claims 1-10 is a final rejection of the claim(s).

Response to Arguments

2. Applicant's arguments filed May 10, 2008 have been fully considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1, 2, and 8 are directed to a computer program per se or data structure of a computer or software and therefore not statutory under 35 U.S. C. 101. This is exemplified in *In re Warmerdam* 31 USPQ2d 1754 where the rejection of a claim to a disembodied data structure was affirmed. Thus a claim to a data structure, per se, or other functional descriptive material, including computer programs, per se, is not patent eligible subject matter.

Functional descriptive material claimed in combination with an appropriate computer readable medium to enable the functionality to be realized is patent eligible subject matter if it is capable of producing a useful, concrete and tangible result when used in the computer system. Compare *Warmerdam* to *In re Lowry* 32 USPQ2d 1031 where a memory with a data structure that increased computing efficiency was patentable.

The computer readable medium loaded with a computer program and in association with a computer provides the functional descriptive material in usable form to permit the functionality to be realized with the computer. A program product which does not explicitly include such a medium, a program per se, a signal or other type of transmission media that fails to include the hardware necessary to realize the functionality (e.g., a transmitter or a receiver), and a piece of paper with the functional descriptive material written on it are all examples of media which are not believed to enable the functionality to be realized with the computer. "[I]nstructions for creating..." is considered as a source code or software per se.

The Examiner notes that the claims are directed to a system where the limitations recited are all directed to software. Claims directed to software per se are considered to be non statutory subject matter. For system claims to be deemed statutory, the body of the claims must include recitations to structural elements or components (e.g. computer, data processor, server, etc.).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.

3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
6. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flores (5,734,837) and in view of Volftsun (6,151,390), and further in view of Fables (US 6,282,697 B1).

Claim 1: Flores discloses the following limitation(s):

- *a mediation script designer configured to graphically and interactively present a user with an environment for modifying the plurality of scripts wherein said environment comprises a scripting area configured to display network element events using a tree model, and an event viewer window operable to display network element definitions. (See at least Flores: col 13, line 60 – col 14, line 15; col 14, lines 62-67)*

Flores does not disclose the remaining limitation(s). However, Volftsun discloses the following:

- *a protocol handler configured to receive usage data from a plurality of network elements, wherein said plurality of network elements comprises a plurality of telecommunication devices, and to format the usage data into a standard format, wherein said usage data comprises transaction data for a plurality of types of content delivery which has previously taken place over a network; (Volftsun: abstract)*

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Flores with the technique of Volftsun because the modification would provide the benefit of a method of handling data sources using incompatible protocols (See at least Volftsun: col 2, lines 35-50). Volftsun does not disclose the remaining limitation(s). However, Fables discloses the following:

- *a data handler configured to parse, format and assemble the standard format usage data in accordance with a plurality of scripts wherein formatting and assembling the standard format usage data comprises converting a plurality of validated call detail records into a plurality of intermediate records and aggregating said plurality of intermediate records into a plurality of assembled records; (See at least Fables: col 3, lines 15-30. Fables discloses a method handler configured to process data based on predefined instructions and generate an output)*

It would have been obvious to one of ordinary skill in the art to combine the elements cited in Flores/Volftsun with the data handlers as taught by Fables because the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately.

Claim 2: Flores/Volftsun/Fables discloses the limitation(s) as shown in the rejection of claim 1. Flores further discloses the following:

- *the mediation script designer is further configured to display a script in a graphical depiction. (See at least Flores: Abstract; col 1, lines 1-23)*

Claim 3: Flores/Volftsun/Fables discloses the limitation(s) as shown in the rejection of claim 2. Flores further discloses the following:

- *the mediation script designer is further configured to display the script as a flow diagram. (Flores: Abstract; col 1, lines 1-23)*

Claim 4: Flores/Volftsun/Fables discloses the limitation(s) as shown in the rejection of claim 2. Flores further discloses the following:

- *the script contains a modifiable element and a nonmodifiable element, (Flores: col 15, line 10- col 16, line 10)*
- *the mediation script designer is further configured to display the modifiable element and the nonmodifiable element as icons, and wherein*

the icon for the modifiable element is displayed with a graphical annotation that differs from the nonmodifiable element, wherein the graphical annotation displayed with the icon for the modifiable element comprises a background color which differs from a background color displayed with the icon displayed with the nonmodifiable element. (See at least Flores: col 6, lines 40-45 and col 9, lines 15-65)

Claim 5: Flores/Volftsun/Fables discloses the limitation(s) as shown in the rejection of claim 2. Flores further discloses the following:

- *the mediation script designer is further configured to selectively display the script in a graphical depiction and as a text depiction. (See at least Flores: col 9 lines 30-40; col 6, lines 40-45; col 13, lines 40-67; col 26, lines 55-67)*

Claim 6: Flores/Volftsun/Fables discloses the limitation(s) as shown in the rejection of claim 1. Flores further discloses the following:

- *the mediation script designer is further configured to display a script editing window and a resource listing of recorded scripts. (See at least Flores: col 31, lines 15-35)*

Claim 7: Flores/Volftsun/Fables discloses the limitation(s) as shown in the rejection of claim 6. Flores further discloses the following:

- *the mediation script designer is further configured to respond to a drag and drop operation between a recorded script in the resource listing and the script editing window. (See at least Flores: col 7, lines 60-67; col 31, lines 15-40)*

Claim 8: Flores discloses the following limitation(s):

- *a database containing the billing-related usage data; (See at least Flores: (See at least Flores: col 4, lines 45-67)*

- *a mediation manager script interface in electronic communication with the database and operably configured in accordance with a plurality of scripts* (See at least Flores: col 6, lines 25-35)
- *a script designer responsive to a user and in client communication with the mediation manager script interface and the database;* (See at least Flores: col 6, lines 10-20; col 4, lines 45-65)
- *the script designer comprising a presentation layer providing a platform independent graphical user interface that is coupled to an integrated testing environment framework for communicating with the mediation manager.* (See at least Flores: col 21, lines 40-55)

Flores does not disclose the remaining limitation(s). However, Volftsun discloses the following:

- *to perform protocol handling of received usage data in the database from a plurality of network elements, to format the usage data into a standard format, and* (See at least Volftsun: Abstract)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Flores with the technique of Volftsun because the modification would provide the benefit of a method of handling data sources using incompatible protocols (See at least Volftsun: col 2, lines 35-50). Volftsun does not disclose the remaining limitation(s). However, Fables discloses the following:

- *to perform data handling to parse, format and assemble the standard format usage data for distribution;* (See at least Fables: col 3, lines 15-30. Fables discloses a method handler configured to process data based on predefined instructions and generate an output)

It would have been obvious to one of ordinary skill in the art to combine the elements cited in Flores/Volftsun with the data handlers as taught by Fables

because the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately.

Claim 9: Flores/Volftsun/Fables discloses the limitation(s) as shown in the rejection of claim 8. Flores further discloses the following:

- *the mediation manager is further configured to access a script versions control repository, the script designer is further configured to respond to a user to interact with the script versions control repository.* (Flores: col 30, lines 58-67; col 31, lines 45-53)

Claim 10: Flores discloses the following limitation(s):

- *remotely presenting a graphical user interface for editing the plurality of scripts that control the receiving, protocol handling, assembling, correlating, and distributing the usage data.* (See at least Flores: col 4, lines 45-65; col 7, lines 48-61)

Flores does not disclose the remaining limitation(s). However, Volftsun discloses the following:

- *receiving and protocol handling the usage data from the plurality of~ collection points in accordance with at least one script from a plurality of scripts;* (See at least Volftsun: Abstract)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Flores with the technique of Volftsun because the modification would provide the benefit of a method of handling data sources using incompatible protocols (See at least Volftsun: col 2, lines 35-50). Volftsun does not disclose the remaining limitation(s). However, Fables discloses the following:

- *assembling, correlating and distributing the usage data to a plurality of billing system outcollects in accordance with at least one script from the*

plurality of scripts; (See at least Fables: col 3, lines 15-30. Fables discloses a method handler configured to process data based on predefined instructions and generate an output)

It would have been obvious to one of ordinary skill in the art to combine the elements cited in Flores/Volftsun with the data handlers as taught by Fables because the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event of a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Preston, whose telephone number is (571) 270-3918. The examiner can normally be reached on Monday to Friday from 9:00 AM to 5:00 PM.

/John O Preston/

Examiner, Art Unit 3691

June 26, 2008

/Alexander Kalinowski/

Supervisory Patent Examiner, Art Unit 3691